

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

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In Re:

Sandra L. Prince-Black  
SSN XXX-XX-0018

**CASE NO. 04-34175 DDO**

**CHAPTER 13 CASE**

Debtor.

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**NOTICE OF OBJECTION TO CONFIRMATION OF PLAN**

TO: Debtor and other entities specified in Local Rule 3015-3.

1. Washington Mutual Bank, FA (hereinafter "Secured Creditor") moves the Court for the relief requested below and gives notice of hearing.

2. The Court will hold a hearing on this objection at 10:30 a.m. on September 9, 2004, before the Honorable Dennis D. O'Brien in Courtroom 228A at U.S. Courthouse, 316 North Robert Street, St. Paul, Minnesota.

3. Any reply to this objection must be filed and delivered not later than 10:30 a.m. on September 8, 2004, which is 24 hours before the time set for the hearing, or filed and served by mail not later than September 6, 2004, which is three days before the time set for the hearing. **UNLESS A REPLY OPPOSING THE OBJECTION IS TIMELY FILED, THE COURT MAY SUSTAIN THE OBJECTION WITHOUT A HEARING.**

4. This Court has jurisdiction over this objection pursuant to 28 U.S.C. §§ 157 and 1334, Federal Rule of Bankruptcy Procedure 5005 and Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this Chapter 13 case was filed July 16, 2004. The case is now pending before this Court.

5. This objection arises under 11 U.S.C. § 1322 and Local Rule 3007-1.

6. Debtor is indebted to Secured Creditor in the principal amount of \$103,100.00, as

evidenced by that certain Promissory Note dated June 30, 1999, a copy of which is attached hereto as Exhibit "A", together with interest thereon.

7. Debtor's indebtedness is secured by a mortgage on real estate in which Debtor has an interest as evidenced by that certain Mortgage Deed dated June 30, 1999, executed by Harold W. Black and Sandra L. Prince-Black, husband and wife, recorded August 30, 1999, as Document No. 330899, a copy of which is attached hereto as Exhibit "B". The name and address of the original creditor is contained in the attached Exhibit "B".

8. Said plan is objected to on the basis that it is not feasible and that Debtor will not be able to make all payments under the plan and to comply with the plan as contemplated by 11 U.S.C. § 1325 (a)(6).

9. Said plan is also objected to on the basis that Debtor is delinquent in her pre-petition monthly mortgage payments to Secured Creditor for the months of April, 2004 through July, 2004, in the total amount of \$4,839.79, including late charges and that said delinquency existing in Debtor's mortgage loan cannot be cured within a reasonable time as required by 11 U.S.C. § 1322(b)(5). In In re Newton, 161 B.R. 207 (Bkrtcy.D.Minn. 1993), this Court reaffirmed its previous finding that more than 12 months is ordinarily not a reasonable time to cure a default in pre-petition homestead mortgage payments under 11 U.S.C. § 1322(b)(5). The plan, as proposed by Debtor, would require approximately 35 months to complete based on the Proof of Claim filed by Secured Creditor. Therefore, the plan does not comply with the provision of Chapter 13 of the Bankruptcy Code, as contemplated by 11 U.S.C. § 1325(a)(1).

10. The value of the property as scheduled by Debtor is \$130,000.00 subject to Secured Creditor's mortgage in excess of \$100,696.35.

11. The plan, as proposed, is not made in good faith by Debtor.

. . .

. . .

12. Therefore, it is requested that the Court deny confirmation of Debtor's plan.

Dated this 30th day of August, 2004.

**WILFORD & GESKE**

By /e/ James A. Geske  
James A. Geske  
Attorneys for Secured Creditor  
7650 Currell Blvd., Suite 300  
Woodbury, Minnesota 55125  
651-209-3300  
Attorney Reg. No. 14969X

THIS COMMUNICATION IS FROM A DEBT COLLECTOR ATTEMPTING TO  
COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT  
PURPOSE.

Aug-02-04 12:20pm From-

T-888 P.002/036 F-044

Loan No.: 274128

~~5265403124~~**V.A. FIXED RATE NOTE**

**NOTICE: THIS LOAN IS NOT ASSUMABLE WITHOUT THE APPROVAL OF THE DEPARTMENT OF VETERANS AFFAIRS OR ITS AUTHORIZED AGENT**

JUNE 30, 1999  
(Date)MAPLEWOOD  
(City)MN  
(State)6656 404TH STREET, NORTH BRANCH, MN 55056  
(Property Address)

JUL 01 1999

**1. BORROWER'S PROMISE TO PAY**

In return for a loan that I have received, I promise to pay U.S. \$ **103,100.00** (this amount is called "principal"), plus interest, to the order of the Lender. The Lender is **AMERICAN RESIDENTIAL MORTGAGE CORP.**

I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder".

**2. INTEREST**

Interest will be charged on unpaid principal until the full amount of principal has been paid. I will pay interest at a yearly rate of **7.750 %**.

The interest rate required by this Section 2 is the rate I will pay both before and after any default described in Section 6(B) of this Note.

**3. PAYMENTS****(A) Time and Place of Payments**

I will pay principal and interest by making payments every month.

I will make my monthly payments on the **1ST** day of each month beginning on **AUGUST 1 1999**. I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. My monthly payments will be applied to interest before principal. If, on **JULY 1, 2029**, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "maturity date".

I will make my monthly payments at **235 E. ROSELAWN AVE., #13, MAPLEWOOD, MN 55117** or at a different place if required by the Note Holder.

**(B) Amount of Monthly Payments**

Each monthly payment of principal and interest will be in the amount of U.S. \$ **738.63**. This amount will be part of a larger monthly payment required by the Security Instrument, that shall be applied to principal, interest and other items in the order described in the Security Instrument.

**4. BORROWER'S RIGHT TO PREPAY**

Privilege is reserved to prepay at any time without premium or fee, the entire indebtedness or any part thereof not less than the amount of one installment, or one hundred dollars (\$100.00), whichever is less. Prepayment in full shall be credited on the date received. Partial prepayment, other than on an installment due date, need not be credited until the next following installment due date or thirty days after such prepayment, whichever is earlier.

**5. LOAN CHARGES**

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (i) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (ii) any sums already collected from me which exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the principal I owe under this Note or by making a direct payment to me. If a refund reduces principal, the reduction will be treated as a partial prepayment.

**6. BORROWER'S FAILURE TO PAY AS REQUIRED****(A) Late Charge for Overdue Payments**

If the Note Holder has not received the full monthly payment required by the Security Instrument, as described in Section 3(B) of this Note, by the end of fifteen calendar days after the payment is due, the Note Holder may collect a late charge in the amount of **FOUR** percent ( **4.000** %) of the overdue amount of each payment.

*AWB*  
*SPB*

**EXHIBIT** *A*

Aug-02-04 12:21pm From-

T-000 P.000M036 F-044

330899

Receipt No. 42401  
 Registration Time at 2:27:13 PM Aug  
22 99  
 Title, Chicago County, Ill.  
 Official Seal  
 Agent, Chicago County, Ill.

OFFICE OF CO. RECORDER  
 CHICAGO COUNTY, MN  
 RECORDED ON

274128  
 LASALI

-99 AUG 30 PM 4 36

COUNTY RECORDER

LOAN NO. 274128

(Sign Above This Line For Recording Date)

330899

**NOTICE: THIS LOAN IS NOT ASSUMABLE WITHOUT THE  
 APPROVAL OF THE DEPARTMENT OF VETERANS  
 AFFAIRS OR ITS AUTHORIZED AGENT.  
 MORTGAGE**

THIS MORTGAGE ("Security Instrument") is given on JUNE 30, 1999. The Mortgagor  
 is HAROLD W. BLACK AND SANDRA L. PRINCE-BLACK, HUSBAND AND WIFE

whose address is 6656 40TH STREET  
 NORTH BRANCH, MN 55356

This Security Instrument is given to AMERICAN RESIDENTIAL MORTGAGE CORP. ("Borrower").

which is organized and existing under the laws of THE STATE OF MINNESOTA, and whose  
 address is 235 E. ROSELAWN AVE., #13  
 MAPLEWOOD, MN 55117 ("Lender").

Borrower owes Lender the principal sum of  
 ONE HUNDRED THREE THOUSAND ONE HUNDRED AND 00/100

Dollars (U.S. \$ 103,100.00). This debt is evidenced by Borrower's note dated the same date as,  
 this Security Instrument ("Note"), which provides for monthly payments, with the full debt, if not paid  
 earlier, due and payable on JULY 1, 2029. This Security Instrument secures to

Lender: (a) the repayment of the debt evidenced by the Note, with interest, and all renewals, extensions and  
 modifications of the Note; (b) the payment of all other sums, with interest, advanced under paragraph 7 to  
 protect the security of this Security Instrument; and (c) the performance of Borrower's covenants and  
 agreements under this Security Instrument and the Note. For this purpose, Borrower does hereby  
 mortgage, grant and convey to the Lender, with the power of sale, the following described property located in  
 CHICAGO County, Minnesota:

LOT FIVE (5), BLOCK FOUR (4), COUNTRY VIEW ESTATES PLAT 5,  
 ACCORDING TO THE MAP OR PLAT THEREOF ON FILE OR OF RECORD  
 IN THE OFFICE OF THE COUNTY RECORDER IN AND FOR CHICAGO  
 COUNTY, MINNESOTA.

1496/35-557741M  
 UNIVERSAL TITLE  
 METRO PRODUCTION  
 777 WASHINGTON AVE.  
 EDINA, MN 55439  
 First choice.

MINNESOTA - Single Family - V.A. Security Instrument  
 Form 2024 1/99  
 Lender Form No. (2024) 449-9722  
 MPT 2742024 1/99

Page 1 of 7

Initials

SRB HWA

EXHIBIT B

Aug-02-04 12:21pm From:

T-004 P.004/035 F-044

which has the address of **6636 404TH STREET**  
 (Town)  
 Minnesota **55056** ("Property Address");

**NORTH BRANCH**  
 (City)

TOGETHER WITH all the improvements now or hereafter created on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property".

**BORROWER COVENANTS** that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

**THIS SECURITY INSTRUMENT** combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

#### **UNIFORM COVENANTS.** Borrower and Lender covenant and agree as follows:

1. **Payment of Principal and Interest; Late Charges and Prepayment.** Borrower shall promptly pay when due the principal of and interest on the debt evidenced by the Note and any prepayment and late charges due under the Note. Privilege is reserved to prepay at any time, without premium or fee, the entire indebtedness or any part thereof not less than the amount of one installment or one hundred dollars (\$100.00), whichever is less. Prepayment in full shall be credited on the date received. Partial prepayments, other than on an installment due date, need not be credited until the next following installment due date or thirty days after such prepayment, whichever is earlier.

2. **Funds for Taxes and Insurance.** Subject to applicable law or to a written waiver by Lender, Borrower shall pay to Lender on the day monthly payments are due under the Note, until the Note is paid in full, a sum ("Funds") for: (a) yearly taxes and assessments which may attain priority over this Security Instrument as a lien on the Property; (b) yearly installment payments or ground rents on the Property, if any; (c) yearly hazard or property insurance premiums; (d) yearly flood insurance premiums, if any; (e) yearly mortgage insurance premiums, if any; and (f) any sums payable by Borrower to Lender, in accordance with the provisions of paragraph 8, in lieu of the payment of mortgage insurance premiums. These items are called "Escrow Items". Lender may, at any time, collect and hold Funds in an amount not to exceed the maximum amount a lender for a federally related mortgage loan may require for Borrower's escrow account under the federal Real Estate Settlement Procedures Act of 1974 as amended from time to time, 12 U.S.C. §2601 et seq. ("RESPA"), unless another law that applies to the Funds sets a lesser amount. If so, Lender may, at any time, collect and hold Funds in an amount not to exceed the lesser amount. Lender may estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with applicable law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentally, or entity (including Lender, if Lender is such an institution) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items. Lender may not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and applicable law permits Lender to make such a charge. However, Lender may require Borrower to pay a one-time charge for an independent real estate tax reporting service used by Lender in connection with this loan, unless applicable law provides otherwise. Unless an agreement is made or applicable law requires interest to be paid, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender may agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds, showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for all sums secured by this Security Instrument.

If the Funds held by Lender exceed the amounts permitted to be held by applicable law, Lender shall account to Borrower for the excess Funds in accordance with the requirements of applicable law. If the amount of the Funds held by Lender at any time is not sufficient to pay the Escrow Items when due, Lender may so notify Borrower in writing, and, in such case Borrower shall pay to Lender the amount necessary to make up the deficiency. Borrower shall make up the deficiency in no more than twelve monthly payments, at Lender's sole discretion.

MINNESOTA - Single Family - V.A. Security Instrument  
 Form 2614 1/98  
 Lender Form Inc. (800) 444-3483  
 LPT #VAM334 11/98

Page 2 of 7

Initials: **SRB HWO**

330899

Aug-02-04 12:22pm From:

T-000 P.011/030 F-044

330899

23. Release. Upon payment of all sums secured by this Security Instrument, Lender shall discharge this Security Instrument without charge to Borrower. Borrower shall pay any recordation costs.

24. Waiver of Homestead. Borrower waives all right of homestead exemption in the Property.

25. Interest on Advances. The interest rate on advances made by Lender under paragraph 7 shall not exceed the maximum rate allowed by applicable law.

Riders to this Security Instrument. If one or more riders are executed by Borrower and recorded together with this Security Instrument, the covenants and agreements of each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Security Instrument as if the rider(s) were a part of this Security Instrument. (Check applicable box(es))

☐ Adjustable Rate Rider  
☐ Graduated Payment Rider  
☐ Balloon Rider  
☒ VA Rider

☐ Condominium Rider  
☐ Planned Unit Development Rider  
☐ Rate Improvement Rider  
☐ Other(s) (specify)

☐ 1-4 Family Rider  
☐ Biweekly Payment Rider  
☐ Second Home Rider

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any rider(s) executed by Borrower and recorded with it.

Witnesses:

\_\_\_\_\_  
 HAROLD W. BLACK (Seal)  
 -Borrower

\_\_\_\_\_  
 Sandra L. Prince-Black (Seal)  
 SANDRA L. PRINCE-BLACK  
 -Borrower

\_\_\_\_\_  
 (Seal)  
 -Borrower

\_\_\_\_\_  
 (Seal)  
 -Borrower

(Please Sign This Line For Acknowledgment)

STATE OF MINNESOTA,

WASHINGTON

County in:

On this 30TH day of JUNE, 1909, before me appeared  
 HAROLD W. BLACK AND SANDRA L. PRINCE-BLACK, HUSBAND AND WIFE

to me personally known to be the person(s) described in and who executed the foregoing instrument and acknowledged that THEY executed the same as their free act and deed.



My Commission Expires:

\_\_\_\_\_  
 -NOTARY PUBLIC

This instrument was prepared by AMERICAN RESIDENTIAL MORTGAGE CORP.  
 or MAPLEWOOD, Minnesota 55057

295 E Rosalynn Ave #13

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

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In Re:

Sandra L. Prince-Black  
SSN XXX-XX-0018

**CHAPTER 13 CASE**

**CASE NO. 04-34175 DDO**

Debtor.

**UNSWORN DECLARATION  
FOR PROOF OF SERVICE**

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Diana Waletzko, employed by Wilford & Geske, attorneys licensed to practice law in this Court, with office address at 7650 Currell Blvd., Suite 300, Woodbury, Minnesota, declares that on August 30, 2004, I served the annexed Notice of Objection to Confirmation of Plan and proposed Order Denying Confirmation of Plan to each person referenced below, a copy thereof by enclosing the same in an envelope with first class mail postage prepaid and depositing the same in the post office at Woodbury, Minnesota addressed to each of them as follows:

Sandra L. Prince-Black  
6656 404<sup>th</sup> Street  
North Branch, MN 55056

Jasmine Z. Keller  
12 South 6th Street, Suite 310  
Minneapolis, MN 55402

Ian Traquair Ball  
12 S 6<sup>th</sup> St Ste 326  
Minneapolis, MN 55402

U.S. Trustee  
1015 U.S. Courthouse  
300 South 4th Street  
Minneapolis, MN 55415

And I declare, under penalty of perjury, that the foregoing is true and correct.

Dated this 30th day of August, 2004.

/s/ Diana Waletzko  
Diana Waletzko



**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

\_\_\_\_\_  
In Re:

**ORDER DENYING CONFIRMATION  
OF PLAN**

Sandra L. Prince-Black  
SSN XXX-XX-0018

Debtor.

**CASE NO. 04-34175 DDO**

\_\_\_\_\_  
This Chapter 13 Case came on before the Court on September 9, 2004, for hearing on Debtor's plan of debt adjustment. Appearances were as noted in the record. Upon the record made at hearing, and all other files and records in this case,

IT IS HEREBY ORDERED that confirmation of Debtor's plan of debt adjustment, as filed July 16, 2004, is denied.

Dated: \_\_\_\_\_  
Judge of Bankruptcy Court